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SP

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

QM22/0402

RONALD B COOLLEY
JENKINS & GILCHRIST, P.C.
1445 ROSS AVENUE, SUITE 3200
DALLAS TX 75202-2799

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/422,510	10/21/99	016	SIPOS, J	3721 04/02/01
First Named Applicant	THOMAS,		35 USC 154(b) term ext. =	0 Days.

TITLE OF INVENTION: FILL-THROUGH-THE-TOP PACKAGE AND METHOD AND APPARATUS FOR MAKING THE SAME

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
3 PCOS:057		053-412.000	E42	UTILITY	NO \$1240.00	07/02/01

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay FEE DUE shown above, or

B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.

Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PATENT AND TRADEMARK OFFICE COPY

Notice of Allowability	Application No.	Applicant(s)
	09/422,510	THOMAS ET AL.
	Examiner	Art Unit
	John Sipos	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 2/5/2001.
2. The allowed claim(s) is/are 40-46 and 61-68.
3. The drawings filed on _____ are acceptable as formal drawings.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS , OR A SUBSTITUTE OATH OR DECLARATION. This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).

6. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. Applicant MUST submit NEW FORMAL DRAWINGS
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review(PTO-948) attached
1) hereto or 2) to Paper No. _____.
 - (b) including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.
 - (c) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>6</u> <i>E2</i> <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. <input checked="" type="checkbox"/> Examiner's Amendment/Comment <input type="checkbox"/> Examiner's Statement of Reasons for Allowance <input type="checkbox"/> Other
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Art Unit: 3721

RESTRICTION REQUIREMENT

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. **Claims 40-46 and 61-68**, drawn to a method of filling bags, classified in Class 53, subclass 412.

Group II. **Claims 47-60**, drawn to an apparatus of sealing packages, classified in Class 53, subclass 133.4.

The inventions are distinct, each from the other, because of the following reasons:

The inventions of Groups I and II are related as **process and apparatus for its practice**.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP 806.05(e)). In this case the process of Group I can be practiced with an apparatus other than the one set forth in the claims of Group II. For example, a profile guide or a sealer below the profile guide as set forth in Group I need not be used in performing the method of Group I.

Because these inventions are distinct for the reasons given above, and because they have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes, as indicated, is proper.

During a telephone conversation between Examiner John Sipos and Mr. D. J. Burnham, attorney of record in this case, on 3/14/2001 , a provisional election was made to prosecute the invention of Group I comprising claims 40-46 and 61-68.

Applicant is reminded that, upon cancellation of claims to a non-elected invention, the **inventorship must be amended** in compliance with 37 CFR 1.48(b) if one or more of the



currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h). Applicant should further **amend the title**, if necessary, to reflect the elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. D. J. Burnahm on March 22, 2001 (These amendments have been made on the unmarked copy of the claims submitted in the amendment of February 5, 2001.) :

In claim 40, line 1, "making and" has been cancelled and after "package", --made from a continuous web of material-- has been inserted;

in line 2, after "providing a", --a plurality of interconnected packages made from said web, each-- has been inserted;

in line 4 and 5, "the fastener including a pair of tracks joined to each other along a breakable area of weakness," has been cancelled;

after line 7, the following new paragraph has been inserted:

separating each package from said plurality of interconnected packages--;

in line 8, after "filling the", --separated-- has been inserted; and

in the last line, after "panel", --of the filled package-- has been inserted.

In claim 44, lines 2 and 3, "joined along a pair of sides and a bottom bridging the sides" has been cancelled;

in lines 4-6, "disposed opposite the bottom, the fastener including a pair of tracks joined to each other along a breakable area of weakness" has been cancelled; and

after line 6, the following new paragraph has been inserted:

attaching said first and second panels to each other to form a pair of sides and a bottom bridging the sides opposite the fastener.

In claim 63, line 1, after "package", --made from a continuous web of material-- has been inserted;

in line 2, after "providing a", --a plurality of interconnected packages made from said web, each-- has been inserted;

in lines 5 and 6, "a fill opening" has been replaced with --an unattached segment and an attached segment of said fastener, said unattached segment and the adjacent one of said two panels define a fill opening therebetween--

after line 6, the following new paragraph has been inserted:

--separating each package from said plurality of interconnected packages--;

in line 6, after "filling the", --separated-- has been inserted; and

in line 7, after "attaching said", --unattached segment of said-- has been inserted.

Claims 47-60, directed to the non-elected invention, have been cancelled.

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The following new claims has been added:

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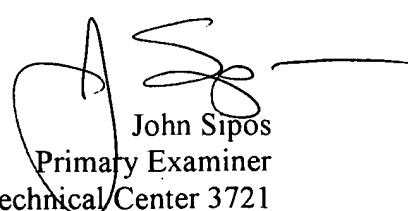
S-69. The method of claim 40 further including the step of sealing said first and second body panels above said fastener.--

REASONS FOR ALLOWANCE

The prior art does not show the forming of packages from interconnected bags, attaching of a fastener to one panel of a pair of opposing panels of the bags to form a filling opening, separating each bag from the interconnected bags, then filling the separated bag through that filling opening and finally sealing the fastener to the other panel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Sipos whose telephone number is (703) 308-1882.


John Sipos
Primary Examiner
Technical Center 3721

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